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C O N F I D E N T I A L SECTION 01 OF 03 THE HAGUE 000553

SIPDIS

NOFORN

STATE FOR EB/ESC/TFS, S/CT, EUR/ERA, INR/EC, EUR/UBI
TREASURY FOR EXECUTIVE OFFICE FOR TERRORIST FINANCING
(ZARATE)
JUSTICE FOR HAYDEN AND SZUBIN
FBI FOR TERRORIST FINANCING TASK FORCE
NSC FOR GPETERS
BRUSSELS ALSO FOR LEGATT
PARIS ALSO FOR USOECD

E.O. 12958: DECL: 03/01/2014

TAGS: [ETTC](#) [PTER](#) [NL](#) [EUN](#)

SUBJECT: (C/NF) TERRORIST FINANCE: USG BRAINSTORMING
SESSION WITH EUROPEAN "LIKEMINDED" COUNTRIES REACHES COMMON
UNDERSTANDING

REF: 03 THE HAGUE 3117

Classified By: Economic Counselor Richard Huff. Reason 1.5(d)

1. (C) Copenhagen, London, and Madrid are exempt from nofor marking to allow discussion with appropriate contacts.

2. (C/NF) Summary: A U.S.-EU declaration on terrorist financing (TF) would reinforce EU political commitment to fighting TF and provide political support for making European TF designation and implementation mechanisms more effective, according to Dutch, Danish, Spanish, and UK officials attending a 2/28 "likeminded" meeting in Paris. They expressed a strong desire to improve EU TF procedures, noting that the EU Clearinghouse does not enable the EU to take swift action to prevent TF. They also said EU designations needed greater follow-up, including through law enforcement action. U.S. officials agreed that the U.S. and Europe needed to work together to make designation, implementation, and follow up actions more complementary and pointed out that the effectiveness of both U.S. and European actions against terrorist assets would be soon subject to public FATF assessment. The Dutch expressed interest in hosting a seminar during their EU Presidency that would feature speakers capable of making a strong legal case for taking swift, administrative and preventive action against sources of TF. End Summary.

3. (C/NF) The Netherlands on February 28 hosted a meeting of "likeminded" countries on the margins of the Financial Action Task Force (FATF) Paris plenary to discuss how the U.S. and EU designation processes might be more effective and complementary in cutting off the flow of funding to terrorist organizations. In addition to the Netherlands, participating countries included the United States, Denmark, UK and Spain. All participants declared that a heightened level of attention to making meaningful designations and taking robust law enforcement action against terrorist financiers is necessary to deter and prevent terrorist attacks and is mandated by UNSCR 1373. EU Members present at the meeting cautioned that opening up the EU regulation on (non-Taliban/Al Qaida-related) asset freezing should be avoided if at all possible as EU opponents of the mechanism could seize this as an opportunity to gut the regulation of substance or raise evidentiary standards to such a level that most designation attempts would be effectively impossible.

4. (C/NF) The Netherlands, Spain, Denmark, and UK thought a U.S.-EU declaration promulgated at the U.S.-EU Summit or other appropriate event (such as the third anniversary of UNSCR 1373) would be extremely valuable in reaffirming the joint political commitment to attacking terrorist financing as a key element of the War on Terrorism and in reinforcing the efforts of those EU countries that would like to tackle terrorist financing more effectively. The Dutch could then use such a declaration as a launching pad for implementing improvements in EU TF practices. Some elements of a U.S.-EU declaration could be an agreement that the U.S. and EU consider without delay each others' designations and set up an official channel of communications between each others' designation systems; establish national designation systems; effectively implement FATF special recommendation III requirements and articulated best practices; prevent designees from evading sanction simply by changing their names; and setup a bilateral U.S.-EU reporting and feedback mechanism to share information on assets frozen and follow up action. The US del also pressed for the adoption of "safe harbor" provisions in all EU countries so as to protect governments and private sector officials from personal liability for actions taken in the course of their work. There was discussion as to whether a declaration should call on each side to explain precisely and in writing reasons for not supporting designations made by the other. Such a

formulation could be useful in influencing reluctant EU member states to more openly identify their core objections to a designation. However, there was also concern by some that this sort of process would slow consideration of designations and that enhanced bilateral contacts might be more effective.

15. (C/NF) European officials thought that there is scope for improving the EU designation process while still working within existing European Union structures -- for example through more focused "clearinghouse" agendas and better informed discussions/participants, eliminating the ability for an EU member state to levy "political" reservations, and by more aggressively pushing recalcitrant EU members to clearly specify and justify their objections to specific designation proposals. They also requested that the USG, in presenting its designation requests to the European Union, better articulate its statements of the case to more fully meet the criteria set out in the EU common position/regulation. Some suspected that sufficient information for the EU to support many designations could be found in open or non-sensitive sources, thus, lightening the burden on the U.S. declassification process. The UK and Denmark, in particular, noted that many EU member states use "lack of information" as a cover for "lack of political will."

16. (C/NF) Participants also noted that the actions of authorities involved in asset freezing and law enforcement must be complementary if maximum results are to be achieved. In the area of follow-up, the U.S. noted that designations of terrorist groups are followed up by U.S. efforts to identify sources of funding for these groups and prosecute them; while EU representatives acknowledged that, instead of being a first step, EU designation of terrorist organizations tended to be a final step. Participants expressed the hope that designating an entity and freezing its assets would generate information that would be useful for pursuing a criminal case that might lead to arrests and asset forfeiture. The Netherlands thought some European legal systems would not easily tolerate assets being frozen for extended periods of time without law enforcement follow up and suggested holding a seminar during their EU Presidency that would feature speakers capable of making a strong legal case for taking swift, administrative and preventive action against sources of TF. Other EU participants stressed the need for more coordination and coherence between the several mechanisms in the EU -- from RELEX and the "clearinghouse" to bodies preparing and considering legislation on anti-money laundering and currency declarations to third pillar law enforcement coordination mechanisms -- that address different aspects of terrorist financing. A coordination mechanism modeled on a FATF typologies exercise was suggested as possible way forward. There was a brief discussion of the internal EU proposal to create a counterterrorism coordinator reporting to Solana, however, the UK and Denmark said they have serious reservations with this idea.

17. (C/NF) USDEL pointed out that all EU members as well as the European Commission are members of FATF and beginning in would by the end of 2005 would be assessed by the FATF (as will all FATF members) on their implementation of FATF special recommendations on the combating of terrorist financing and that the likelihood is that many EU members -- especially those lacking national authority to freeze terrorist-related assets without delay and on a reasonable basis -- will come up short. EU countries attending the brainstorming session tended to express a preference for EU as opposed to national action but also noted that having national regimes in place will be necessary not only to meet FATF requirements but to ensure effective mechanisms are in place should the current EU asset freeze regime fail to overcome the several court challenges levied against it.

18. (C/NF) Participants concluded the meeting by noting that it had been extremely useful in defining important issues and developing actionable suggestions. They pledged to keep in touch in the coming months and to look for opportunities to meet again (perhaps next on the margins of the next FATF terrorist finance committee meeting). EU representatives agreed that including specific deliverables on terrorist financing in the upcoming US-EU Summit Declaration would significantly help the Netherlands in its effort to use its upcoming EU Presidency to improve EU TF efforts. All thought it would be important for any ideas ripe for advancement (such as the idea of a U.S.-EU declaration) be carefully introduced into EU processes and the U.S.-EU dialogue; the next step for these ideas should be to engage the Irish presidency. Participants noted that some of the actions discussed, namely those dealing with enhancing the quality of deliberations in the Clearinghouse and instituting effective follow-up, can only be undertaken by EU countries themselves, but agreed that it would be important for the U.S. to keep in close touch with EU "likeminded" to determine when U.S. influence would be complementary and when it would be counterproductive.

19. (C/NF) Participants in this "likeminded" meeting:

Netherlands: Mr. Stefan van Wersch, RELEX Counselor
Ms. Margreet Wenting, Ministry of Finance
Mr. Leon Timmers, National Intelligence and
Security Agency (AIVD)
Mr. Wouter Jurgens, Political Affairs
Department, Ministry of Foreign Affairs
Mr. Alle Dorhout, European Integration
Department, Ministry of Foreign Affairs
Mr. Jacco Bos, Dutch Embassy Paris

Denmark: Ms. Anne Ehrenreich, Ministry of Foreign Affairs
Mr. Jorgen Gammelgaard, RELEX Counselor

Spain: Mrs. M. Jesus Alonso Gimenez, Ministry of
Foreign Affairs
Mr Pedro Jiminez Nacher, RELEX Counselor

UK: Mr. Robert Tinline, FCO

USG: Ms. Nicole Rothstein, EB/ESC/TFS
Mr. Gary Novis, S/CT
Ms. Suzanne Hayden, DOJ
Mr. Charles Ott, Treasury
Mr. Clement Gagne, USEU
Mr. Todd Kushner, US Embassy The Hague

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